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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/500,974

Applicant(s)

GREEN ET AL.

Examiner

Ismael Izaguirre

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-10 and 12-21 is/are rejected.
- 7) ☒ Claim(s) 3,6 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

SPECIFICATION

On page 1 of the specification, the two noted application are now patents. Patent numbers should be inserted for further identifying the applications noted.

CLAIMS

Summary

Claims 1 and 16 are the independent claims under consideration in this Office Action.

Claims 2-15 and 17-21 are the dependent claims under consideration in this Office Action.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101, which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-12 and 14-21 rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-17 and 18-25 of prior U.S. Patent No. 6,672,230. This is a double patenting rejection.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,5,8,9,12,14-17 and 19-21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lund (4,193,360).

Lund teaches a modular gauge assembly having a plurality of modular blocks carrying removable gauge elements capable of being mounted in a plurality of spaced recesses of a tufting machine gauge bar. Lund teaches the modular blocks as including a detent 17 for extending from a rear surface of the module and attachable to the gauge bar via a screw 15 and detent 13. The detent extends from a rear surface of the module and is interfitted into a recess 14 in the gauge bar. A plurality of vertical parallel slots 22 for accommodating gauge elements 11 therein. Lateral pin openings 24 are provided comprising a first upper pin opening 24 and a second lower pin opening for accommodating first and second pins which bias the gauge elements therebetween. The biasing is caused by first and second perpendicularly positioned threaded bolts 25 which include a conical end which cams the pins against the gauge elements.

Claims 1,4,5,7,8,10,12-16 and 18-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ingram (4,491,078).

Ingram teaches a modular gauge assembly (figure 3, for example) having a plurality of modular blocks 32 carrying removable gauge elements, which in this case are loopers 28 capable of being mounted in a plurality of spaced recesses of a tufting machine gauge bar. Ingram teaches the modular blocks as including a detent extending from a rear surface of the module at 74 and attachable to the gauge bar via a screw 94. A plurality of first vertical parallel slots 100 and second parallel slots 102 are provided for accommodating the gauge elements therein. A lateral pin opening 96 is provided for accommodating segmented pins 108, which bias the gauge elements in a fixed position. The biasing is caused by a plurality of perpendicularly positioned threaded bolts 106 which bias or cam the pins against the gauge elements. Each bolt contacts a different segment along the length of the module.

ALLOWABLE SUBJECT MATTER

Claims 3,6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

PERTINENT CITATIONS

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beyer illustrates a plurality of modules connectable to a gauge bar, which include a pin 17 accommodated between the module and the bar. Stoker et

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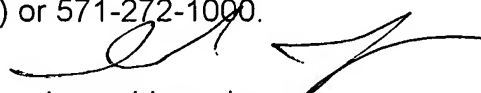
al. Illustrate a gauge module block including lateral apertures accommodating pins and screws for biasing the pins against the gauge elements.

INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ismael Izaguirre
Primary Examiner
Art Unit 3765